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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,948	01/20/2006	Claus Pedersen	855.0010.U1(US)	6878

29683   7590   01/06/2009
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EXAMINER
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ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
01/06/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _7/2/2008_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-30 and 33-36_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-30 and 33-36_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____ .

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

1.   The previous office action dated 7/02/2008 is vacated because the effective date

of the applied reference Apfel does not qualify as prior art against this application.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (e) the invention was described in (1) an application for patent, published under section 122(b),
> by another filed in the United States before the invention by the applicant for patent or (2) a
> patent granted on an application for patent by another filed in the United States before the
> invention by the applicant for patent, except that an international application filed under the treaty
> defined in section 351(a) shall have the effects for purposes of this subsection of an application
> filed in the United States only if the international application designated the United States and
> was published under Article 21(2) of such treaty in the English language.

3.   Claims 1-5, 7-9, 11, 13, 17-18, 20-23, 25, 27-30, and 33-36 are rejected under 35

U.S.C. 102(e) as being anticipated by Minear et al (2003/0032417).

With respect to claim 1, Minear discloses an apparatus comprising: a processor

(See Minear's figure 1(12) section [0023], [0026]) and a transceiver **(See Minear's**

figure 1(12) section [0023], [0026]) configured to transmit an initiation message to the

a remote server **(See Minear's figure 2(30) section [0025])** to initiate a setting-up of a

session between the server and the apparatus , and the processor and the transceiver

further configured to respond to the setting-up of the session **(See Minear's figure 5**

section [0032], [0033]) , to by the transfer of a personal collection of at least one of

data and settings between the apparatus and the server **(See Minear's abstract,**

section [0008]-[0011]).

With respect to claim 17, Minear discloses a server **(See Minear's figure 2(30)**

section [0025]), comprising: a transceiver for communicating configured to

communicate with a remote device identified in a received initiation message **(See**

Minear's figure 1(12) section [0023], [0026]), to set-up a session between the server

and the identified device to transfer at least one of a personal collection of at least one

of data and settings between the device and the server **(See Minear's abstract,**

section [0008]-[0011]).

With respect to claim 27, Minear discloses a memory **(See Minear's figure 2(56)**

section [0026]) configured to store a data structure organized as a hierarchical

management tree **(See Minear's figure 3 section [0028]-[0029])** comprising a user

management object defining a personal collection of at least one of data and settings

(See Minear's abstract, section [0008]-[0011]), wherein the management object is a

hierarchical tree structure comprising leaf nodes, defining in combination the personal

collection of the at least one of data and settings, and interior nodes, wherein each

interior node and each leaf node depends from a single interior node and each leaf

node has a value representing a portion of the personal collection of data and or

settings **(See Minear's figure 3 section [0028]-[0029]).**

With respect to claim 30, Minear discloses a method of personalizing a second

device comprising: uploading a personal collection of data and settings from a first

device to a server for storage; and downloading a stored personal collection of data and

settings from the server to a second device **(See Minear's abstract, figure 2, figure 4,**

section [0032], and [0033]).

With respect to claim 34, Minear discloses a method of transmitting an initiation message to a remote server in order to initiate a setting-up of a session with the server , and in response to setting-up the session **(See Minear's figure 2(30) section [0025], [0032], [0033])**, transferring a personal collection of at least one of data and settings to the server **(See Minear's abstract, section [0008]-[0011]).**

With respect to claim 36, Minear discloses a computer readable medium encoded with a computer program executable by a processor to perform actions **(See Minear's figure 4 & 5, section [0032], [0032])** comprising: transmitting an initiation message to a server in order to initiate a setting-up of a session with the server, and in response to setting-up the session, transferring a personal collection of at least one of data and settings to the server **(See Minear's figure 4 & 5, section [0032], [0032]).**

With respect to claim 2, Minear discloses an apparatus further comprising: a memory configured to store a data structure organized as a hierarchical management tree **(See Minear's figure 3 section [0028]-[0029])** comprising a user management object defining the personal collection of at least one of data and settings, wherein the user management object is a hierarchical tree structure comprising leaf nodes, defining in combination the personal collection of data and interior nodes, wherein each interior node and each leaf node depends from a single interior node and each leaf node has a value representing a portion of the personal collection and said processor further configured to adapt the structure and content of the user management object. **(See Minear's figure 3 section [0028]-[0029]).**

With respect t to claim 3, Minear discloses an apparatus wherein the

personal collection of at least one of data and settings is transferred or copied as a

description of the user management object or a portion of the user management object

(See Minear's figure 3 section [0028]-[0029]).

With respect to claim 4, Minear discloses an apparatus configured to create a

hierarchical menu structure from the user management object by which a user can

navigate to selectable options **(See Minear's figure 3 section [0028]-[0029]).**

With respect to claim 5, Minear discloses an apparatus wherein the

initiation message is an upload initiation message to initiate the setting-up of a

session between the server and the, apparatus for the transfer of the

personal collection of at least one of data and settings from the apparatus to the

server, the upload initiation message comprising a parameter identifying the data to

uploaded and a parameter identifying a user **(See Minear's abstract, section [0008]-**

[0011]).

With respect to claim 7, Minear discloses an apparatus further comprising a user

input for entry of the PIN code **(See Minear's figure 1(12) section [0023], [0026]).**

With respect to claim 8, Minear discloses an apparatus wherein the

parameter identifying the data to be uploaded identifies a node of a data structure

organized as a hierarchical nodular tree structure **(See Minear's figure 3 section**

[0028]-[0029]).

With respect to claim 9, Minear discloses an apparatus further comprising a

memory **(See Minear's figure 2(56) section [0026])** configured to store a data

structure organized as a hierarchical management tree **(See Minear's figure 3 section [0028]-[0029])** comprising a user management object defining the personal collection of at least one of data and settings, wherein the management object is a hierarchical tree structure comprising leaf nodes, defining in combination the personal collection of at least one of data and settings **(See Minear's abstract, section [0008]-[0011])**, and interior nodes, wherein each interior node and each leaf node depends from a single interior node and each leaf node has a value representing a portion of the personal collection **(See Minear's figure 3 section [0028]-[0029])**; and a processor **(See Minear's figure 1(12) section [0023], [0026])** configured to adapt the structure and content of the user management object, comprising creating a hierarchical menu structure from the user management object by which a user can navigate to selectable options **(See Minear's figure 3 section [0028]-[0029])**, and wherein the initiation message is an upload initiation message to initiate the setting-up of a session between the server and the apparatus **(See Minear's figure 5 section [0032], [0033])**, by the server, for the transfer of a personal collection of at least one of data and settings from the apparatus to the server, the upload initiation message comprising a parameter identifying the data to be uploaded and a parameter identifying the user, and wherein the parameter identifying the data to be uploaded identifies a node of a data structure organized as a hierarchical nodular tree structure, and wherein the menu enables a user selection of the identified node **(See Minear's abstract, section [0008]-[0011])**.

With respect to claim 11, Minear discloses an apparatus wherein the initiation message is a download initiation message to initiate the setting-up of a

session between the server and the apparatus, by the server, for the transfer of the

personal collection of at least one of data and settings from the server to the apparatus,

the upload initiation message comprising a parameter identifying the user **(See**

Minear's abstract, section [0008]-[0011], [0025], [0032], and [0033]).

With respect to claim 13, Minear discloses an apparatus further comprising a

user input configured to accept the PIN code **(See Minear's figure 1(12) section**

[0023]).

With respect to claim 18, Minear discloses a server comprising a memory storing

a database, wherein the server is responsive to a received initiation message,

identifying data to be uploaded and a user of the device, to create a record in the

database for the identified user **(See Minear's figure 2(30) section [0025], [0032],**

[0033]).

With respect to claim 20, Minear discloses a server wherein the server issues a

command to the device, during the session between the server and the device,

identifying the data to be uploaded **(See Minear's abstract, section [0008]-[0011]).**

With respect to claim 21, Minear discloses a server wherein the command

identifies a node of a data structure organized as a hierarchical nodular tree structure

(See Minear's figure 3 section [0028]-[0029]).

With respect to claim 22, Minear discloses a server wherein the created

database record stores a description of a hierarchical nodular tree structure, comprising

at least one oft-he a user's personal collection of data and/or or settings, received from

the device during the session **(See Minear's figure 3 section [0028]-[0029]).**

With respect to claim 23, Minear discloses a server comprising a memory configured to store a database, wherein the server is responsive to a received download initiation message, identifying a user of the device, to access a record in the database for the identified user **(See Minear's figure 2(30) section [0025], [0032], [0033])**.

With respect to claim 25, wherein the accessed record stores a description of a hierarchical nodular tree structure that includes at least one of that user's personal collection of data and settings, and comprising the server is configured to transfer the description to the device during the session **(See Minear's figure 3 section [0028]-[0029])**.

With respect to claim 28, Minear discloses a memory configured to store the data structure, further comprising a root node wherein the user management object depends from the root node and a plurality of other management objects depend from the root node **(See Minear's figure 3 section [0028]-[0029])**.

With respect to claim 29, Minear discloses data structure to create a hierarchical menu structure representing at least one of the user's personal collection of data and settings **(See Minear's figure 3 section [0028]-[0029])**.

With respect to claim 33, Minear discloses that the apparatus of claim 1 is embodied in a mobile device **(See Minear's figure 1(12) section [0023], [0026])**.

With respect to claim 35, the limitations o the claim 35 are address above. Claim 35 is merely a combination of different claims.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 6, 12, 14-15, 19, and 24 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Minear et al. (2003/0032417) in view of well-known prior art (MPEP

2144.03).

        With respect to claim 6, 19, and 24, Minear discloses a mobile device. Minear

does not specifically disclose that the upload initiation message further comprises a

parameter identifying a PIN code. However, an official notice is taken that the concept

and use of a identifying a PIN code are well known and expected in the art. Therefore, it

would be obvious to one of ordinary skill in the art to include a parameter identifying a

PIN code.

        With respect to claim 12, Minear discloses a mobile device and a server. Minear

does not specifically disclose a parameter identifying a PIN code. However, an official

notice is taken that the concept and use of a identifying a PIN code are well known and

expected in the art. Therefore, it would be obvious to one of ordinary skill in the art to

include a parameter identifying a PIN code.

        With respect to claim 14, Minear discloses an apparatus wherein the parameter

identifying the user is provided. Minear does not specifically disclose that these

parameters are provided automatically. However, an official notice is taken that the

concept and use of providing parameters to a mobile device automatically are well

known and expected in the art. Therefore, it would be obvious to one of ordinary skill in

the art to provide the functionality of providing parameters automatically.

With respect to claim 15, Minear discloses a mobile device which transfers data.

Minear does not specifically disclose that the apparatus is configured to transfer data by

copying, and by moving. However, an official notice is taken that the concept and use of

copying/moving data which are the same, are well known and expected in the art.

Therefore, it would be obvious to one of ordinary skill in the art to include functions for

copying data.

Conclusion

6.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to SAYED T. ZEWARI whose telephone number is

(571)272-6851. The examiner can normally be reached on 8:30-4:30.

7.   If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Lester G. Kincaid can be reached on 571-272-7922. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

8.   Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sayed T Zewari/
Examiner, Art Unit 2617

January 5, 2009

/Lester Kincaid/
Supervisory Patent Examiner, Art Unit 2617